

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Writ Jurisdiction)
W.P. (C) No. 2022 of 2019

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M/s Hills Trade RK, (JV) Gurgaon			Petitioner
Versus			
The State of Jharkhand & Others			Respondents

CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO

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For the Petitioner	: Mr. Anil Kumar, Advocate.
For the Respondents / State	: Mr. Mohan Kr. Dubey, A.C. to Mr. Rajiv Ranjan, Advocate General.

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The matter is being taken up through Video Conferencing. Learned counsel for the parties have no objection with it and submitted that the audio and video qualities are good.

06/07.11.2022.

Learned counsel for the petitioner has submitted, that the petitioner M/s Hills Trade RK, (JV) Gurgaon has preferred this writ petition on 24.04.2019 for a direction upon the respondents regarding tax deduction and refund of tax deducted from the regular bill in connection with Palma Maskodih Chaube Kishwari Road from K.M. 0.00 km to K.M. 21.54 (Part-A) under Road Division, Hazaribagh, as at the time of tender, VAT was @ 4% but before execution of the agreement, the VAT has been nullified and GST has been implemented in place of VAT.

Learned counsel for the petitioner has further submitted, that petitioner has filed his representation before the Executive Engineer, Road Construction Department, Road Division, Hazaribagh that he is not in a position to abide by the terms of agreement, in view of change in tax i.e. VAT @ 4% to GST @ 16%, but his representation has not been considered, rather the Executive Engineer, Road Construction Department, Road Division, Hazaribagh in terms of Memo No. 1201 dated 12.07.2017, forwarded the same to the Superintending Engineer, Road Construction Department, Road Circle, Hazaribagh, who has sent the copy of the same to the Chief Engineer, Road Construction Department, Jharkhand, Ranchi for his comment, but no reply to it was given, rather a direction was issued to the petitioner to execute the agreement and do the work and the Executive Engineer, Road Construction Department, Road Division, Hazaribagh vide Letter No. 1328 dated 07.08.2017 directed the

petitioner that if the work is not initiated, his entire bank guarantee and performance security shall be confiscated and it has been submitted that in view of the letter of the Chief Engineer, Road Construction Department, Jharkhand as contained in Letter No. 1491 dated 28.07.2017, tax calculation shall be made and the petitioner has to do the work. The said letter has been brought on record as Annexure-7 (page-41 of the brief).

Learned counsel for the petitioner has further submitted, that even though petitioner has given his calculation of tax, which has been brought on record as Annexure-8 (page-42 of the brief), but the respondent authorities are not looking into the matter and an affidavit has been filed by one Tuntun Kumar Singh, son of Late Ganga Prasad Singh, Executive Engineer, Road Construction Department, Road Division, Hazaribagh instead of filing it by the Chief Engineer, Road Construction Department, Jharkhand or Secretary, Road Construction Department, Government of Jharkhand, who can place the case with regard to change in tax from VAT @ 4% to GST @ 16% and thus the matter is only pending because respondents are not having responsibility in resolving the dispute, rather they are filing counter affidavit one after another, which is an eye wash before this Court because Executive Engineer cannot take such decision and he has said that the petitioner to do the work and now the Chief Engineer or the Secretary of the Department is not filing affidavit.

Learned counsel, Mr. Mohan Kumar Dubey, A.C. to learned Advocate General, Mr. Rajiv Ranjan is directed to file affidavit before this Court within a period of two weeks either through the Secretary, Road Construction Department, Government of Jharkhand in person or through the Chief Engineer, Road Construction Department, Jharkhand, but the said affidavit must be approved by the Secretary, Road Construction Department, Government of Jharkhand, as the matter is of the year 2019 and issue is only with regard to change in tax that at the time of issuance of tender, tax was VAT @ 4% and at the time of execution of

agreement, VAT has been nullified and GST has been implemented, which is being demanded @ 16%.

Put up this case on 07.12.2022 under the same heading.

Office is directed to delete the name of learned counsel, Mr. Ajit Kumar from the column of respondents by substituting the name of learned counsel, Mr. Rajiv Ranjan, Advocate General in the cause list.

(Kailash Prasad Deo, J.)

Sunil/-